

REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application. In response to the rejection under 35 U.S.C. 112, second paragraph, applicant has amended claims 16 and 27 to resolve the concerns expressed by the Examiner.

Claims 16-21, 23-25, and 27-30 have been rejected under Section 103(a) as being unpatentable over Khalid, et al. (hereinafter R1) in view of Reinbold, et al. (hereinafter R2). In paragraph 11 of the Office action, it states that R1 is silent regarding the treatment of milk before coagulation. In paragraph 15 of the Office action, it states that R2 is silent regarding the specific strains as presently claimed. Paragraph 16 of the Office action states that the USPTO does not possess the facilities to test the claimed strains of microorganisms vs. the strains of the prior art, in order to show obviousness. Paragraph 16 then assumes that the prior art strains are similar to or the same as the claimed strains and then attempts to shift the burden to applicant to demonstrate that the strains of R1 do not in fact have the same properties as the claimed strains. Applicant believes that there is not sufficient support for the proposition that the claimed strains are obvious in view of, and/or similar to, the prior art strains. Applicant traverses the rejection on this basis. Nevertheless, Applicant has conducted experiments to establish the patentability of the invention. Attached hereto is a Declaration of Giovanni Mogna, the inventor of the present application. The Declaration describes several experiments which were conducted under the supervision of Mr. Mogna. The Declaration describes these experiments as follows.

6. Several experiments regarding the above invention were conducted under my supervision. The results and discussion of the experiments are attached hereto as Examples 1-3 and Tables 1A and 2. In Example 3, samples were assessed by thromboelastography; this refers to the determination of the aptitude to milk coagulation of each sample 1-4. See Table 2 for the results of the thromboelastographic analysis. Example 3 confirms that the claimed strains of my invention have the properties to provide greater aptitude to coagulation of milk (see samples 2 and 4). Further, Example 3 confirms that *Lactobacillus plantarum* LMG P-21385 does not work as a starter culture, contrary to the position taken by the Examiner in the most recent Office action.

7. Example 1 (A) and Table 1 (A) - Assessment of caseins proteolysis - confirm that the claimed strains are not responsible for proteolysis, contrary to Khalid et al (R1) (page 3068, introduction, paragraph 2) and the Examiner's statement (page 3, paragraph 8, in the Final Action).

8. Example 2 - Electrophoretic analysis of milk caseins in different samples of milk - confirms that no hydrolysis is obtained in the milk sample 3 (lane 4) and milk sample 4 (lane 5) in comparison with the mix of the three caseins (lane 7), contrary to R1 (page 3068, introduction, paragraph 3) and the Examiner's statement (page 3, paragraph 9, in the Final Action).

9. In view of the foregoing experimental data, it is my opinion that R1 does not represent a relevant document against the present claims of the above-referenced patent application and does not render, alone or with R2, my invention obvious.

In summary, for all the reasons set forth above, it is clear that the invention as now claimed is new and non-obvious in view of the cited references R1 and R2. For these reasons, the claims as now presented are free from the prior art and a Notice of Allowance is now in order.

Applicant requests reconsideration of the claims and allowance in due course. If any further fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. HOFF-38315.

Respectfully submitted,
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